

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

MAPLEBEAR INC. DBA INSTACART,

Plaintiff,

v.

CORNERSHOP TECHNOLOGIES, INC.;  
CORNERSHOP TECHNOLOGIES LLC;  
DELIVERY TECHNOLOGIES US, INC.;  
DOES 1-10,

Defendants.

Case Action No. 2:20-cv-240 [JRG]

**FIRST AMENDED DOCKET CONTROL ORDER**

In accordance with the scheduling conference held in this case, it is hereby ORDERED that the following schedule of deadlines is in effect until further order of this Court:

<b><u>CURRENT DEADLINE</u></b>	<b><u>NEW DEADLINE</u></b>	<b><u>EVENT</u></b>
July 12, 2021		Jury Selection – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap
June 17, 2021		Pretrial Conference – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap
June 10, 2021		File Joint Pretrial Order, Joint Proposed Jury Instructions and Form of the Verdict, Responses to <i>Motions in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations.
June 3, 2021		*Notify Deputy Clerk in Charge regarding the date and time by which juror questionnaires shall be presented to accompany by jury summons if the Parties desire to avail themselves the benefit of using juror questionnaires <sup>1</sup>

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<sup>1</sup>The Parties are referred to the Court's Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

June 3, 2021		File Motions <i>in Limine</i>  The parties are ordered to meet and confer on their respective motions <i>in limine</i> and advise the court of any agreements in this regard by 1:00pm three (3) business days before the pretrial conference. The parties shall limit their motions <i>in limine</i> to those issues which, if improperly introduced into the trial of the case would be so prejudicial that the court could not alleviate the prejudice with appropriate instruction(s).
June 3, 2021		File Notice of Request for Daily Transcript or Real Time Reporting.  If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.
June 1, 2021		Serve Pretrial Objections
May 20, 2021		Serve Pretrial Disclosures
May 13, 2021		Response to Dispositive Motions (including <i>Daubert</i> Motions). <sup>2</sup> Responses to dispositive motions filed prior to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e). Motions for Summary Judgment shall comply with Local Rule CV-56.
April 29, 2021		Deadline for Filing Dispositive Motions and any other motions that may require a hearing, including <i>Daubert</i> motions.

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<sup>2</sup>The parties are directed to Local Rule CV-7(d), which provides in part that “[a] party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.” Local Rule CV-7(e) provides that a party opposing a motion has 14 days, in addition to any added time permitted under Fed. R. Civ. P. 6(d), in which to serve and file a response and any supporting documents, after which the court will consider the submitted motion for decision.

April 29, 2021		Defendant to Identify and Give Notice of Trial Witnesses
April 22, 2021		Plaintiff to Identify and Give Notice of Trial Witnesses
April 15, 2021		File Response to Amended Pleadings
April 15, 2021		Mediation to be completed
April 1, 2021		File Amended Pleadings (It is not necessary to file a Motion for Leave to Amend before the deadline to amend pleadings. It is necessary to file a Motion for Leave to Amend after the amended pleadings date set forth herein.)
March 22, 2021	April 9, 2021	Discovery Deadline
March 18, 2021		Deadline to File Motions to Compel Regarding Discovery Disputes.
March 5, 2021	March 22, 2021	Defendant to designate Expert Witnesses <sup>3</sup> Expert witness report due Refer to Local Rules for required information
February 5, 2021	February 22, 2021	Plaintiff to Designate Expert Witnesses <sup>4</sup> Expert witness report due Refer to Local Rules for required information
February 5, 2021	February 12, 2021	Privilege Logs to be exchanged by parties (or a letter to the Court stating that there are no disputes as to claims of privileged documents).

#### OTHER LIMITATIONS

1. All depositions to be read into evidence as part of the parties' case-in-chief shall be **EDITED** so as to exclude all unnecessary, repetitious, and irrelevant testimony; **ONLY** those portions which are relevant to the issues in controversy shall be read into evidence.

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<sup>3</sup> Plaintiffs who are also Counterclaim Defendants, as well as third-party Counterclaim Defendants, shall designate Expert Witnesses specific to such counterclaims at this deadline.

<sup>4</sup> Defendants who are also Counterclaim Plaintiffs shall designate Expert Witnesses specific to such counterclaims at this deadline.

2. The Court will refuse to entertain any motion to compel discovery filed after the date of this Order unless the movant advises the Court within the body of the motion that counsel for the parties have first conferred in a good faith attempt to resolve the matter. See Eastern District of Texas Local Rule CV-7(h).
3. The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:
  - (a) The fact that there are motions for summary judgment or motions to dismiss pending;
  - (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
  - (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.
4. Mediation shall be attended, in person, by named parties (if an individual) or by a fully authorized representative (if not an individual) and by lead counsel. Third party insurance carriers who may be obligated to indemnify a named party and/or who owe a defense to any party shall also attend mediation, in person, by means of a fully authorized representative. Non-compliance with these directives shall be considered an intentional failure to mediate in good faith.
5. Any motion to alter any date on the DCO shall take the form of motion to amend the DCO. The motion to amend the DCO shall include a proposed order that lists all of the remaining dates in one column (as above) and the proposed changes to each date in an additional adjacent column (if there is no change for a date the proposed date column should remain blank or indicate that it is unchanged). In other words, the DCO in the proposed order should be complete such that one can clearly see all the remaining deadlines and the changes, if any, to those deadlines, rather than needing to also refer to an earlier version of the DCO.
6. **Lead Counsel:** The Parties are directed to Local Rule CV-11(a)(1), which provides that “[o]n the first appearance through counsel, each party shall designate a lead attorney on the pleadings or otherwise.” Additionally, once designated, a party’s lead attorney may only be changed by the filing of a Motion to Change Lead Counsel and thereafter obtaining from the Court an Order granting leave to designate difference lead counsel.

**So Ordered this**

**Jan 22, 2021**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE